

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

Electricity Market Design and Structure

Docket No. RM01-12-000

ORDER PROVIDING GUIDANCE ON
CONTINUED PROCESSING OF RTO FILINGS

(Issued November 7, 2001)

It is a fundamental objective of the Commission, in exercising its responsibilities under Part II of the Federal Power Act, to create a seamless, national, competitive marketplace for wholesale sales of electric energy and adequate generation and transmission infrastructure to support that marketplace. Such a marketplace will provide customers with more reliable and efficiently priced electric energy than wholesale markets with unnecessary variation in market rules and business practices. As a cornerstone of support for this national marketplace, we have endeavored for several years to create regional transmission organizations (RTOs) to capture the benefits and efficiencies of a competitive power marketplace for the nation's electricity customers. The FERC has before it numerous ongoing proceedings involving RTO proposals, and it

has recently assessed the status of these proceedings and the ongoing changes in the electricity marketplace. Taking into account the various stages of RTO efforts in the country, and the industry and state comments we have received in recent weeks (discussed below), in this order we state some of our goals and provide general guidance on how we intend to proceed on RTO filings and other related efforts. Our decision is in the public interest because it will provide direction for the electric industry and information to the public as we continue to move the RTO process forward.

The Commission held a public conference on RTO issues (RTO Week) during the week of October 15 through 19, 2001. RTO Week consisted of 10 sessions on various topics involving RTOs and the need for clear, appropriately standardized transmission tariff design and market rules. These sessions included participants from a wide range of affected interests and, significantly, included extensive comments from state commissioners. In addition, at our open meeting on October 24, 2001, we received status reports on RTO efforts in various regions of the country, including the Southeast, Northeast and Midwest. In association with the Western Governors' Committee on Regional Electricity Power Cooperation (CREPC) and the Commission's Western Regional Infrastructure Workshop in Seattle, Washington on November 1-2, 2001, the Commission also had the opportunity to hear updates on RTO efforts in the Western Interconnection. We now need to determine an expeditious, yet carefully deliberated, way to complete the development of RTOs, taking into account the need for further industry and state comments.

The Commission intends to complete the RTO effort using two parallel tracks. The first track will be to resolve issues relating to geographic scope and governance of qualifying RTOs across the nation; these will be addressed in pending RT dockets following consultation with state commissioners, as discussed below.

The second track for resolving RTO issues will be in the transmission tariff and market design rulemaking for public utilities, including RTOs, in Docket No. RM01-12-000. This will help address business and process issues needed for organizations to accomplish the functions of Order No. 2000.

The FERC will take several immediate steps to move the RTO process along these tracks: (1) a broader definition of how certain RTO functions will be fulfilled; (2) better state/federal dialogue; (3) further cost/benefit studies; (4) identification of areas where standardization is called for; and (5) creation of a time line for RTO implementation.

Statement of Policy Goals

A. Fulfillment of RTO Functions

The Commission must ensure that the RTO not only efficiently operates a transmission grid, but also undertakes certain activities to enable and sustain a vibrant and fair wholesale marketplace. For both aspects of an RTO to be successful, broad stakeholder support is important. In a number of proceedings, parties have proposed the development of a separate organization to perform some of the wholesale market activities, some of which were specified as RTO functions under Order No. 2000, and some of which have been raised as additional activities to enable vibrant and efficient

wholesale markets. These wholesale market activities include: (1) congestion management; (2) ancillary services; (3) administration of a balancing market; (4) OASIS administration, including total transmission capacity and available transmission capacity calculations; (5) security coordination; (6) market monitoring; (7) regional transmission facility planning; and (8) tariff administration and design.

In Order No. 2000, the Commission contemplated that an ITC or an ISO may develop as a stand-alone RTO. In addition, however, the Commission will be seeking comments on other ways wholesale market activities might be fulfilled. For example, Midwest ISO, Alliance and Southwest Power Pool have already agreed to have a single market monitoring unit. In addition, the newly-formed Western Electric Coordinating Council handles both security coordination (reliability) and transmission planning duties. In order to phase in the progress toward comprehensive and geographically-large RTOs, these basic wholesale market activities could first be placed under the control or oversight of the broader organization. Other functions could be integrated into the broader organization later.

In written submissions in various pending dockets and in the discussions during RTO week, particularly from state commissions and public power entities, parties seek assurance that critical wholesale market operations are being administered as objectively as possible. A number of reasonable models have been offered for this function both in the mediation dockets and in pending RTO dockets. The FERC will address these issues in the pending RT dockets.

B. State Participation; Other Outreach

The invaluable participation of state commissioners in RTO Week confirms and reinforces our belief that we must work closely with state commissions to create a seamless national market. To that end, we plan to create and institute state-federal RTO panels as a forum for constructive dialogue between the Commission and state commissions with respect to RTO development.

We have asked our staff to provide recommendations on panel structure and propose a timeline for the work of the panels to begin. We invite state commissioners to participate in this process, and we look forward to working with them to address the ongoing needs of regional markets.

As the first matter of business, we intend to ask state commissioners to provide their advice to the Commission about the make-up of regional markets. Specifically, the Commission will ask them for comments on the allocation of wholesale market activities, as set forth in Section A above. For example, in the West, it is now apparent that the presence of three sub-regional organizations (bound by a workable seams agreement) under a larger umbrella organization has the potential to succeed.

The Commission will institute additional outreach efforts with stakeholders and other interested persons on the status of, and obstacles to, RTO formation. For example, the Commission intends to meet with investor representatives to help us better understand

the financing of independent transmission companies and of transmission construction.¹

The Commission seeks to support development of a pro-investment marketplace that is flexible enough, under Order No. 2000, to include both for-profit transcos and not-for-profit ISOs and any reasonable combinations of the two.

C. Cost/Benefit Studies

On a parallel track to the organizational efforts listed above, the Commission will perform additional cost-benefit analyses on RTOs to guide our further efforts. These analyses are intended to demonstrate whether and, if so, how RTOs will yield customer savings and to provide a quantitative basis for the appropriate number of RTOs.

The Commission has established a working group with state commission participation to work with FERC staff and the study consultant in framing these further analyses.

D. Standardization of Market Rules

As recently announced, we intend to issue a notice of proposed rulemaking in this docket that will reform the open access tariffs to standardize market design rules, as appropriate. Our task in this rulemaking will be to balance the need to remove undue discrimination and excessive costs in transmission services with the need to permit regional differences and market innovation. The reformed tariff will be required to be

¹These meetings will be publicly noticed, and we will invite subsequent comments on their content.

filed by RTOs and other public utilities that own, operate or control interstate transmission facilities.

During RTO Week we received many comments about the need for transmission tariff reform, and we also heard many views about the need for flexibility and market creativity in certain areas. RTO Week provided some concrete suggestions as to where flexibility is needed and where it will be a disadvantage. We look forward to receiving additional comments from the public on these issues.² It is important not to compromise the benefits that transmission organizations have already conferred upon the public, and we are committed to making sure that transmission customers and the electric customers they serve will benefit as a result of this effort. We do not believe that the best way to create a national marketplace is to begin with the lowest common denominator, but instead intend to build on successful concepts here and in other countries.

The Commission recently issued an advance notice of proposed rulemaking in Docket No. RM02-1-000 on standardizing generation interconnection agreements and procedures. The first phase of our interconnection rulemaking process will be a Notice of Proposed Rulemaking (NOPR) on terms and conditions of interconnection services to be published in January, 2002. The second phase will be a separate NOPR on pricing issues associated with interconnections, to be published in April 2002. Interconnection rules are

²We encourage parties to view and file electronic comments at www.ferc.gov/electric/rto/mrkt-strct-comments/rm01-12-comments.htm. We will be holding staff follow-up conferences.

a critical piece of open access transmission services and RTOs initially will be required to follow the same interconnection policies that we set forth for other public utilities in the new rules. These rules will help support appropriately sited generation and appropriately priced infrastructure for new generation. It is clear that resolution of the pricing issue early in this process will allow for swifter consensus on broader RTO issues.

E. Timeline/Status

As noted above, numerous filings are pending involving RTO development. The Commission intends to issue future orders addressing the pending filings and providing specific guidance once it has received comments from the state regional panels as discussed above.

In recognition of the fact that RTO development is in very different stages in various parts of the country and that it is not possible for all RTOs to be in operation by the December 15, 2001 deadline established in Order No. 2000, we intend to address in our future orders the establishment of a progressive, but appropriately measured, timeline for continuing RTO progress in each general region. The Commission is particularly cognizant of the critical importance of keeping parties focused on performing RTO functions now while positioning for future, more regional integration. In particular, information systems are especially challenging to coordinate and must be handled with diligence and care. Any timetable ultimately adopted for regional integration must be based on a sound business plan with substantive buy-in from a cross-section of market participants.

Conclusion

This effort to create a seamless, national electricity marketplace is similar to that led by the Commission in the natural gas industry a decade ago. In that regard, the Commission calls upon all interested parties to commit the necessary time and resources to a thorough and expedient completion of the industry transition.

This order is not intended to provide final rulings with respect to creation of RTOs, but to lay out our goals and process for their creation. We have invited public comments subsequent to RTO Week, and we reiterate our willingness to consider the opinions of market participants, state commissions and the general public as we move to complete this transition. Although we strive for consensus where it can be reached, we are aware that the long-term success of regional electric markets will require the

Commission to make timely and clear policy decisions. For that reason, we are committed to a broad and open process that will allow for the most developed record possible.

By the Commission.

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David P. Boergers,
Secretary.